

IN THE SUPREME COURT OF THE STATE OF NEVADA

HIGH POINT CONSTRUCTION, INC. D/B/A
RAFAEL FRAMERS,
Petitioner,

vs.

JEFFREY C. STONE, INC., AN ARIZONA
CORPORATION D/B/A SUMMIT BUILDERS
OF NEVADA; TROPICANA INN
INVESTORS, LLC, A NEVADA LIMITED
LIABILITY COMPANY; MARSHALL
INVESTMENTS CORPORATION, A
FOREIGN CORPORATION; THE MIDTOWN
NIKI GROUP, LLC, A FOREIGN LIMITED
LIABILITY COMPANY; AND THE RMCI
GROUP, INC., A FOREIGN CORPORATION,
Respondents.

No. 53825

FILED

JUN 04 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DENYING PETITION FOR EXTRAORDINARY RELIEF

This is an original petition for extraordinary relief asking this court to grant petitioner leave to file an appeal in the district court.¹

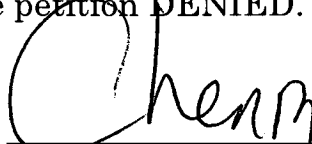
On May 12, 2009, this court received the document at issue here, a "motion" seeking leave to file a notice of appeal submitted by High Point Construction d/b/a Rafael Farmers (petitioner). Petitioner attempted to submit this document under the appeal in Docket No. 52195, which was previously dismissed without prejudice because a bankruptcy stay was in place, and in which a motion to reinstate the appeal is currently pending. Petitioner, however, is not a party to the 52195 appeal, and therefore, we construe petitioner's "motion" as a petition for extraordinary relief and have thus filed it as a separate case with its own

¹The clerk of this court shall amend the caption on this court's docket to conform to the caption on this order.

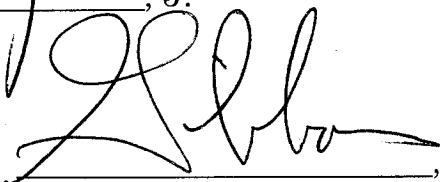
supreme court docket number.² An “opposition” to petitioner’s request for relief was subsequently filed on May 20, 2009.

We conclude that petitioner’s request for relief should be denied. NRAP 3(a) sets forth the process for filing a notice of appeal, which must be accomplished by filing the notice of appeal in the district court. Thus, petitioner need not seek this court’s permission before filing a notice of appeal; rather, it should simply file that document in the district court, which will then transmit the notice of appeal and related materials to this court. NRAP 3(e). Moreover, to the extent that petitioner seeks to have this court make conclusions regarding this court’s jurisdiction to consider its appeal before such an appeal has even been filed, that request is improper. This court cannot and will not assess or opine on its jurisdiction over any notice of appeal until said notice of appeal has been filed in the district court and transmitted to this court. Accordingly, having considered this petition for extraordinary relief and the opposition thereto, we

ORDER the petition DENIED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

²Because we treat this document as an original petition for extraordinary relief and have filed it as an independent original proceeding, petitioner is required to pay the supreme court filing fee for this case. NRS 2.250. Accordingly, petitioner shall have 15 days from the date of this order to pay the filing fee.

cc: Snell & Wilmer, LLP/Las Vegas
Fennemore Craig, P.C./Las Vegas
Marquis & Aurbach
Michael R. Mushkin & Associates, P.C.
Santoro, Driggs, Walch, Kearney, Holley & Thompson
Soloman, Grindle, Silverman & Spinella
The Midtown Niki Group, LLC
Eighth District Court Clerk